

FILED

26 Nov 13

Steven Fontenot
Master Gunnery Sergeant
U.S. Marine Corps
Phone: 813-210-3759
E-mail: stevfont67@yahoo.com

2013 NOV 26 A 11: 27
CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

1:13-mc-39

Custodian of Records
Navy Federal Credit Union
Fax: (704) 206-4085

Subj: MOTION TO QUASH FEDERAL SUBPOENA TO PRODUCE EVIDENCE IN THE
CASE OF UNITED STATES V. LIEUTENANT COLONEL KISHA M. FLAGG, U.S. MARINE
CORPS

Custodian of Records,

I am the customer whose records are being requested by the Government and I am filing an official objection to the release of any and all of my financial records. Pursuant to section 3403 (b) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et. seq, the applicable provisions of that statute have not been complied with as to the administrative subpoena provided by the Government. The following legal issues are noted for my objection: Improper service of the subpoena and the possibility of self-incrimination in future legal proceedings.

Even though the subject subpoena is dated 29 October, this document was not provided to me until 25 November. The subpoena was issued by email from the Marine Corps Legal Services Support Section at Quantico Marine Corps Base. Since the subpoena requests that my documents be turned over on 27 November, this does not afford me the proper time to respond to the subpoena or seek proper legal counsel in order to determine what my necessary steps should be. I am citing improper service as my initial reason for objecting to this subpoena and respectfully request that the court afford me the time and opportunity to protect my legal rights.

According to the requirements for serving a subpoena in the state of Virginia, the military prosecutor must provide me not less than ten days before judgment by default may be entered. I don't believe that email is even a proper method for notifying an individual that a subpoena exists but since the government is aware of my email address and my correct phone number (not listed on the document provided to Navy Federal), there is no excuse for the lengthy delay in notifying me of the government's request. It is clear that the government is attempting to deny my basic legal rights by making it near impossible to properly file a legal objection in a timely manner.

Also, by the government's own admission, they are attempting to collect documents to "corroborate charges being brought up against" me at court martial proceedings. The Fifth Amendment of the U.S. Constitution protects an individual from being forced to testify against himself when such testimony could result in criminal liability. This is the other reason I must be afforded the opportunity to seek proper legal counsel before my records are turned over to the military prosecutor.

Moreover, the account in question is a joint account. By providing this request so late, the government does not allow time for proper notification of the joint account holder. This person should also be allowed the proper time to seek legal counsel noting that her records/use of the account are not relevant to the law enforcement inquiry stated in the subject subpoena.

Please do not hesitate to contact me if any questions or concerns arise. I can be reached at 813-210-3759 or by email at stevfont67@yahoo.com.

Sincerely,



S. FONTENOT

Encl: (1) Letter to Navy Federal dated 29 Oct 2013

Encl: (2) Subpoena dated 29 Oct 2013

Encl: (3) E-mail dated 25 Nov 2013 indicating initial delivery of Subpoena



UNITED STATES MARINE CORPS
LEGAL SERVICES SUPPORT SECTION
NATIONAL CAPITOL REGION
3250 CATLIN AVENUE
QUANTICO, VIRGINIA 22134-5001

5800
B 0521
29 Oct 13

Pete D. Houtz
Major, U.S. Marine Corps
Regional Trial Counsel
Marine Corps Base Quantico
3250 Catlin Avenue
Quantico, VA 22134-5001
Office: (703) 784-0037
Fax: (703) 784-0035
E-mail: pete.houtz@usmc.mil

Custodian of Records
Navy Federal Credit Union
Fax: (704) 206-4085

Subj: FEDERAL SUBPOENA TO PRODUCE EVIDENCE IN THE CASE OF UNITED
STATES V. LIEUTENANT COLONEL KISHA M. FLAGG, U.S. MARINE CORPS

Custodian of Records,

Enclosed is a Federal Subpoena requiring you to produce evidence pertaining to the General Court-Martial case of United States v. LIEUTENANT COLONEL KISHA M. FLAGG, U.S. Marine Corps. This subpoena requires you to cause to be delivered to United States Marine Corps, Legal Services Support Section National Capitol Region, c/o Major Pete D. Houtz, Regional Trial Counsel, Marine Corps Base Quantico, 3250 Catlin Avenue, Quantico, VA, 22134-5001 certain evidentiary documents by 27 November 2013. The following evidence is being subpoenaed: All checking, savings, credit, and stock accounts, specifically all bank account debit card, check card, and credit card balance statements from the time period of November 2011 to present in any form including electronic and digital records for accounts held under the name STEVEN FONTENOT, Phone number 301-784-9371, SSN: 465-49-0744, and last known address 14108 Bayvista Drive Apt 304, Woodbridge, VA 22191. A business record attestation certificate should also accompany these records. Specially, the attestation certificate should be a written declaration by the records custodian certifying that the record (A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; (B) was kept in the course of regularly conducted business activity; and (C) was made by the regularly conducted business activity as a regular practice.

Please do not hesitate to contact me if any questions or concerns arise. I can be reached at (703) 784-0037 or by e-mail at pete.houtz@usmc.mil.

Sincerely,


P. D. HOUTZ

Encl: (1) Subpoena dated 29 Oct 2013.

**STATEMENT OF CUSTOMER RIGHTS
UNDER THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978**

ADDITIONAL INFORMATION

If you have any questions about your rights under this law, or about how to consent to release your financial records, please call the official whose name and telephone number appears below:

Major Pete D. Houtz USMC
(703) 784-0037

Legal Services Support Section – National Capitol Region
Attn: Regional Trial Counsel
3250 Catlin Avenue
Quantico, Virginia 22134-5001

SUBPOENA

The President of the United States, to Navy Federal Credit Union
(Name and Title of Person being Subpoenaed)

You are hereby summoned and required to appear on the 27 day of November, 2013, at 8

o'clock A .M., at 3250 Catlin Ave Quantico VA, (before General
(Place of Proceeding) (Name and Title of Deposition Officer)
 designated to take your deposition) (a General court-martial of the United States) (a court of inquiry),
 appointed by CG, Training and Education Command, GCMCA 1-12, dated 12 October
(Identification of Convening Order or Convening Authority)
2012, to testify as a witness in the matter of U.S. v Lieutenant Colonel Kisha M. Flagg
(Name of Case)

(and bring with you any and all past and present bank account records belonging to Steven Fontenot, SSN: 465-49-0744).
(Specific Identification of Documents or Other Evidence)

Failure to appear and testify is punishable by a fine of not more than \$500 or imprisonment for a period not more than six months, or both. (10 U.S.C. § 847). Failure to appear may also result in your being taken into custody and brought before the court-martial (U.S. v Flagg) under a Warrant of Attachment (DD Form 454).

Manual for Courts-Martial R.C.M. 703(e)(2)(G).

Bring this subpoena with you and do not depart from the proceeding without proper permission.

Subscribed at LSSS-NCR, TSO, Quantico VA this 29th day of October, 2013.

PD / LK

(Signature (See R.C.M. 703 (e)(2)(C))

The witness is requested to sign one copy of this subpoena and to return the signed copy to the person serving the subpoena.

I hereby accept service of the above subpoena.

Signature of Witness

NOTE: If the witness does not sign, complete the following:

Personally appeared before me, the undersigned authority, _____,

who, being first duly sworn according to law, deposes and says that at _____,

_____ he personally delivered to _____ in person a duplicate of this subpoena.

Grade

Signature

Subscribed and sworn to before me at _____, this _____ day of _____

Grade

Official Status

Signature

From: **Kays Maj Amelia B** amelia.kays@usmc.mil
Subject: **FW: MGySgt Fontenot Financial Records Subpoena**
Date: **November 25, 2013 at 3:15 PM**
To: **Steven Fontenot** stevfont67@yahoo.com

Very Respectfully,

**MAJOR AMELIA KAYS
SENIOR DEFENSE COUNSEL FOR RESERVE MATTERS
LSSS-NATIONAL CAPITAL REGION
MARINE CORPS DEFENSE SERVICES ORGANIZATION
703-432-0612**

NOTICE: This electronic transmission contains privacy sensitive information, attorney work-product or information protected under the attorney-client privilege. It is confidential, legally privileged and intended for use only by the individual or entity which is entitled to receive this transmission for official use only. Any misuse or unauthorized access is strictly prohibited and may result in both civil and criminal penalties. Do not release this information without prior authorization from the sender. If this has inadvertently reached the wrong party, please delete all materials pertaining to it immediately and notify the sender at the email address or phone number above. This electronic transmission is also not intended by the sender or the agency to constitute either an electronic record, or an electronic signature, or to constitute any agreement by the sender to conduct a transaction by electronic means.

MGySgt Fontenot
Financial Records Subp...

26 Nov 13

Steven Fontenot
Master Gunnery Sergeant
U.S. Marine Corps
Phone: 813-210-3759
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